

BR

IN THE  
UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

**FILED**

U.S. ex rel. Theodore Luczak  
Petitioner,

vs.

Terry McCann, Warden  
Respondent,

No. 07 C 6375  
The Honorable  
Ronald A. Guzman  
Judge Presiding

APR - 4 2008 *aw*  
*Apr 4, 2008*  
MICHAEL W. DOBBINS  
CLERK, U.S. DISTRICT COURT

MOTION FOR EXTENSION OF TIME

Petitioner, Theodore Luczak, pro-se; hereby moves this Honorable Court for a thirty (30) day extension of time to respond to the respondent's answer to the above-captioned petition for writ of habeas corpus, from March 27, 2008, to and including April 25, 2008.

An affidavit in support of this motion is attached hereto.

March 27, 2008.

*/s/ Theodore Luczak*

Theodore Luczak Pro-Se;  
I.D. #B-00780  
Stateville Corr. Cent.  
Route 53, P.O. Box 112  
Joliet, Illinois 60434

STATE OF ILLINOIS

}

COUNTY OF WILL

**FILED**APR - 4 2008  
Apr 4, 2008MICHAEL W. DOBBINS  
CLERK, U.S. DISTRICT COURTAFFIDAVIT

Theodore Luczak, being first duly sworn upon oath, deposes and states as follows:

- (1) That I am a pro-se; petitioner in this cause of action, currently incarcerated within the Illinois Department of Corrections; Stateville facility, under registered number B-00780.
- (2) That the respondent's answer was filed on March 26, 2008, and petitioner's response is currently due to be filed on or before April 10, 2008.
- (3) That despite due diligence, your affiant is unable to timely file his response by April 10, 2008, due to an institutional lockdown, and the fact that your affiant is being denied adequate and meaningful access to law books or legal materials.
- (4) That this is petitioner's first request for an extension of time, in which to respond to the respondent's answer to the habeas petition.

(5) That this motion is not for the purposes of delay, but is being made solely to ensure that petitioner's interests are adequately protected.

(6) That petitioner respectfully request that this Honorable Court grant his thirty (30) day motion for extension of time to and including April 25, 2008, within which to file his response to the respondent's answer to the instant petition for writ of habeas corpus.

FURTHER AFFIANT SAYETH NOT.

151 Theodore Luczak  
Theodore Luczak Pro-Se,

## United States District Court, Northern District of Illinois

Name of Assigned Judge or Magistrate Judge	RONALD A. GUZMÁN	Sitting Judge if Other than Assigned Judge	
CASE NUMBER	07 C 6375	DATE	3/07/08
CASE TITLE	U.S. ex rel. Theodore Luczak (B-00780) v. Terry McCann		

## DOCKET ENTRY TEXT:

Petitioner's motion for appointment of counsel or in the alternative a court order affording adequate and meaningful access to legal materials [17] is denied as premature. The Clerk is directed to send a copy of this order to the Warden Terry McCann of Stateville Correctional Center.

☐ [For further details see text below.]

Docketing to mail notices.

## STATEMENT

Petitioner's motion for appointment of counsel is denied at this time as premature. Counsel must be appointed in a habeas corpus proceeding only if an evidentiary hearing is needed or if the interests of justice so require. See Rule 8(c), Rules Governing Section 2254 Cases. Whether the interests of justice require appointment of counsel in this case cannot be determined until after the Court has had an opportunity to review and consider respondent's answer to the petition.

In the alternative Petitioner asks for a court order affording him adequate and meaningful access to legal materials. Due to penological concerns of security and orderly administration, the Court will defer to the judgment of Stateville Correctional Center officials with respect to scheduling inmates' use of the law library and receiving of legal materials. Nevertheless, the Court certifies that the above-captioned case is pending in federal court. The Court accordingly requests that correctional officials grant the plaintiff reasonable access to the law library, in a manner to be determined by prison administrators. The Court emphasizes that this is a request to prison officials, not an order.

Courtroom Deputy  
Initials.

CLH

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U.S. ex rel. Theodore Luczak  
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vs.

Terry McCann, Warden.  
Respondent,

Case No.  
Honorable  
RONALD A. GUZMAN  
Judge Presiding

CERTIFICATE OF SERVICE

I, Theodore Luczak, being first duly sworn on oath, deposes and states that on March 28, 2008, I have placed my Motion For Extension Of Time: in which to file my response to respondent's answer to my petition, in the U.S. mail at the Stateville Correctional Center, and served a copy on the following party:

Garson Fischer  
Assistant Attorney General  
Office of the Illinois Attorney General  
100 West. Randolph St. 12th Floor  
Chicago, Illinois 60601

Pursuant to Title 28 U.S.C. § 1746 or 735 ILCS 5/1-109. I

declare under penalty of perjury, that I am a named party in the above action, that I have read the above documents, and that the information contained therein is true and correct to the best of my knowledge and belief.

Dated: March 27, 2008.

/s/ Theodore Luczak  
Theodore Luczak Pro-Se,  
I.D. No. B-00780